
SUMMARY OF PROVISIONS

by
The International Trade Administration
U.S. Department of Commerce
(December 11, 1987)

1. Overview

Each year the United States and Canada exchange more goods, services and capital than any two countries in the world. Bilateral trade in goods and services exceeded \$150 billion in 1986. In addition, the accumulated direct bilateral investment through 1986 totaled almost \$67 billion.

To enhance this unique commercial relationship, the United States and Canada have initialed the elements of a free trade agreement (FTA). If approved and implemented the FTA will facilitate American-Canadian business by:

- Eliminating all tariffs on bilateral merchandise trade;
- Eliminating virtually all import and export restrictions;
- Eliminating or reducing many nontariff barriers to trade and investment;

- Establishing rules for the conduct of bilateral investment;
- Resolving many outstanding bilateral issues;
- Establishing principles for the conduct of bilateral trade in services;
- Enhancing the energy and national security policies of the United States and Canada;
- Facilitating business travel; and
- Establishing a timely bilateral dispute settlement mechanism.

Economic Implications

The lowering or removal of barriers to trade and investment will have strong general economic benefits for the United States and Canada. Economists in both countries

2025865385

forecast increased economic growth, bilateral trade and investment, lower prices, expanded employment opportunities, and enhanced North American (U.S. and Canadian) competitiveness in the world marketplace resulting from the FTA.

In announcing his intention to enter into the agreement, President Reagan said: "This historic agreement will strengthen both our economies and over time create thousands of jobs in both countries. It will serve as an important model for other nations seeking to improve their trading relationships. In many respects it will also serve as a model for the Uruguay Round of multilateral trade negotiations."

FTA Approval Process

On October 3, 1987, President Reagan notified Congress that he intends to enter a free trade agreement with Canada on January 2, 1988, contingent upon successful conclusion of the negotiations. After signature, the agreement and implementing legislation will be formally presented to the House and Senate. Congress will consider the bill under the "fast track" negotiating authority. Under the "fast track" Congress has 60-90 legislative days to approve or disapprove the bill, with no amendments permitted. A simple majority of both the House and Senate is required for approval.

If approved by the United States and Canada, the free trade agreement is expected to enter into force on January 1, 1989.

FTA Provisions

The FTA is a broad agreement which will govern trade and investment between the United States and Canada for most industrial, agricultural, and service sectors. The following summaries present background information and substantive detail on the major provisions of the agreement. Since the pact is currently in draft and subject to approval procedures in both countries, the provisions outlined below should be treated as indicative rather than definitive. Individual data sheets are provided below on these issues:

Agriculture	Quantitative Restrictions
Automotive Trade	Safeguards
Culture	Services
Customs Matters	Standards
Dispute Settlement	Subsidies/Antidumping
Energy	Dispute Settlement
Financial Services	Tariffs
Government Procurement	Temporary Entry for Business
Investment	Wine and Distilled Spirits

For Further Information

Contact the U.S. Department of Commerce, Office of Canada (Room 3033), Washington, D.C. 20230, or call (202) 377-3101; or the Office of Public Affairs, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506, or call (202) 395-3230.

2. Agriculture

Bilateral Benefits: Canadian and U.S. agricultural producers will have increased opportunities to market their products in the future with no tariff barriers and with fewer non-tariff barriers.

Overview: Various barriers to trade in agriculture have arisen in recent years in an attempt to stabilize the agricultural economy. Quotas, import licenses, technical requirements, and subsidies have all had a negative effect on trade in agricultural products. The FTA provides for a number of liberalizing measures in an era of increasing protectionism.

FTA Provisions

- The two sides have agreed to a comprehensive package that will eliminate all agricultural tariffs within 10 years.
- Canadian import licenses for U.S. wheat, barley, oats and grain products will be eliminated when support programs in both countries are equal. Both sides reserved the right to impose or reimpose restrictions if there is a substantial change in the support level of either party.
- The U.S. has agreed not to impose restrictions on products containing less than ten percent sugar, for purposes of protecting the U.S. sugar support program.
- For the first twenty years, either side may temporarily reimpose duties on horticultural products up to pre-FTA levels in certain low price situations.
- Canadian import quotas for poultry, poultry products and eggs will be increased.
- Subsidies provided by the Canadian Western Grain Transportation Act for products moving through western Canadian ports to U.S. markets will be eliminated.
- The two countries will exempt each other from their

2025865386

respective meat import laws, subject to certain conditions.

- Both sides agreed that their primary goal with respect to agricultural subsidies is to achieve, on a global basis, the elimination of all subsidies which distort agricultural trade and agreed to work together to achieve this goal, including working together in the Uruguay Round.
- Both sides have agreed to work together to harmonize to the greatest extent possible technical regulations affecting agricultural food and beverage products.

3. Automotive Trade

Bilateral Benefits: The U.S. and Canada have agreed to the removal of tariff and nontariff barriers which will eliminate certain trade and investment distorting practices. They also agreed to a new, tougher rule of origin. The combined effects of these changes will be to encourage greater production of motor vehicles and sourcing of automotive parts and components in North America and to create greater symmetry in our bilateral trading relationship.

Overview: Under the U.S.-Canada Automotive Products Trade Agreement of 1965 ("Auto Pact"), 95 percent of bilateral automotive trade with Canada already moves duty free. As a result of the FTA, all automotive trade will move duty free. Automotive products accounted for over one-third, or \$46 billion, of our total bilateral trade in 1986.

FTA Provisions

- All tariffs are to be eliminated by January 1, 1998.
- Canada's export-based duty remission program (duty waivers conditioned on exports) will be eliminated immediately on exports to the United States.
- Canada's production-based duty remissions (duty waivers conditioned on meeting local content requirements) will be phased out.
- Existing duty remission schemes may not be enhanced or extended and no new ones may be put in place.
- The FTA will not change the Auto Pact; however, no new firms may qualify for Auto Pact or Pact-like benefits, such as duty-free access to imports of parts from third countries. Each party will endeavor to administer the Auto Pact in the best interests of employment and production in both countries.

- A new, tougher rule of origin was adopted that combines the concepts of change of tariff heading and substantial transformation; this rule is, for automobiles, 50 percent North American direct cost of manufacturing.
- Canada's embargo on used motor vehicles will be phased out.
- A select panel will be established to assess the state of the industry and to recommend public policies and private initiatives that would contribute to increased competitiveness.

Note: See separate paper on "Customs Matters."

4. Culture

Bilateral Benefits: Canada faces no constraints on its ability to promote the development of Canadian culture through economic measures. The United States can take measures of equivalent economic effect to respond to actions taken by Canada in the cultural area.

Overview: The U.S. recognizes the importance to Canada of maintaining its cultural identity. At the same time, however, the U.S. wants to ensure that Canadian cultural policies do not constitute an unnecessary barrier to U.S. trade.

The U.S. and Canada have agreed that certain cultural areas are not subject to the specific provisions of the agreement, except for the elimination of tariffs. (Cultural industries are defined as publication, distribution, sale or exhibition of: books, magazines, and newspapers; film and video recordings; audio or video music recordings; radio, television and cable broadcasting.) Both parties can respond to actions taken by the other party that would be inconsistent with the FTA if cultural industries were covered. In addition, Canada has agreed to alter certain discriminatory practices.

FTA Provisions

- Explicit recognition that cultural industries are exempt from the agreement.
- To respond to actions that would be inconsistent with the FTA, the other side can take measures of equivalent economic effect.
- Elimination of tariffs on printed matter and recordings.
- Canada has agreed to provide copyright law protection

for the retransmission of copyrighted programming effective no later than January 1, 1990.

- Canada has agreed to remove the "print in Canada" requirement for eligible advertising expenses which can be deducted for income tax purposes.

Note: See separate paper on "Investment."

5. Customs Matters

Bilateral Benefits: The customs chapter establishes a rule of origin to ensure that the tariff benefits of the FTA are restricted to U.S. and Canadian goods. It includes rules on certain duty programs to prevent distortions to trade and investment.

Overview: The customs chapter defines what products qualify for special tariff treatment under the FTA and limits the use of duty drawback, duty waivers, and Foreign Trade Zones.

FTA Provisions

- The rule of origin for eligibility for tariff treatment under the FTA for articles incorporating third-country materials will be based on specified changes in tariff classification under the new Harmonized System of Tariff Nomenclature. Precise rules, by tariff line, specify the necessary change in classification to qualify.
- Certain imported articles must incur 50 percent of their manufacturing costs in one or both countries to be eligible for FTA tariff treatment.
- Duty drawback for bilateral trade will end January 1, 1994, with some special exceptions.
- Goods produced under programs that confer benefits similar to drawback and exported to the other country (such as Canada's inward processing program or U.S. Foreign Trade Zones) shall, after January 1, 1994, be treated for tariff purposes as if they were entered for consumption in the producing country.
- Duty waivers linked to performance requirements generally will end January 1, 1998. When either the United States or Canada grants a company-specific duty waiver to a designated firm or individual, it will either make the duty waiver generally available or end it if the waiver hurts the commercial interest of the other country.

- Customs user fees will be phased out by January 1, 1994.

6. Dispute Settlement

Bilateral Benefits: Both sides will benefit from effective, expeditious dispute settlement procedures.

Overview: The U.S.-Canada Free Trade Agreement promises to broaden the level of business activity between the world's largest commercial partners and bring substantial economic returns to both countries. Both parties anticipate questions of interpretation and application will arise as they adjust to their new obligations. To prevent such questions from escalating and possibly derailing the Agreement, Canada and the United States will establish institutional arrangements for effective dispute avoidance and resolution.

FTA Provisions

- A cabinet-level Canada-United States Trade Commission will be created to supervise implementation of the Agreement. The Commission will meet annually for consultations and as required to defuse problems before they become full blown disputes.
- Notification and consultation procedures will reinforce the emphasis on dispute avoidance. The Commission may call on experts or mediators to facilitate dispute resolution.
- Disputes not resolved by the Commission will be automatically referred to a panel of experts for consideration. Normally, the panel decision will resolve the dispute unless the U.S. and Canada agree on an alternative solution. (Disputes regarding a safeguard action taken by either party are subject to binding arbitration.)
- If these procedures fail to produce a mutually satisfactory solution, an aggrieved party can retaliate.
- Time limits on each phase of the dispute settlement process are designed to assure the resolution within eight to nine months.
- Special provisions apply in two areas. Financial services disputes will be handled by separate consultation procedures administered by our finance ministers. Separate procedures also will apply in countervailing duty and antidumping duty cases.

Note: See separate paper on "Binational Panel Dispute

2025865388

Settlement in Antidumping and Countervailing Duty Cases."

7. Energy

Bilateral Benefits: The United States and Canada will derive economic and mutual security benefits from a strong FTA agreement that places energy trade on a free market basis. Almost all bilateral barriers to energy trade will be eliminated, providing secure access to energy supplies and markets on a nondiscriminatory basis, thereby enhancing the national security of both countries.

Additional investment will occur in both countries for energy projects that require large amounts of capital and long-term assurances that markets will not be disrupted. Because energy is a major input to industrial competitiveness, both countries' international competitiveness will be greatly enhanced by a strong energy agreement. Consumers will benefit from lower prices. Increased productivity will stimulate economic growth.

Overview: Canada is virtually our only foreign supplier of natural gas and electricity, and our leading supplier of oil and uranium. Bilateral energy trade totals about \$10 billion. Canadian energy imports are especially important to the United States because of their security compared with other import sources. Conversely, secure access to U.S. markets for energy products is especially important to Canada.

FTA Provisions

- The energy chapter includes: crude oil, petroleum products, natural gas, electricity, coal, and uranium.
- The FTA provides for free bilateral trade, non-discriminatory access to energy supplies, and secure markets for exports.
- Both countries have agreed to prohibit restrictions on imports or exports, including quantitative restrictions, export or import taxes, minimum import or export price requirements or any other equivalent measure, subject to very limited national security and short supply exceptions. If short supply actions are taken, the parties must share available supplies proportionately among historic users in the two countries.
- Both countries will eliminate restrictions on imports and exports of uranium. Canada will eliminate various practices that discriminate against energy exports to the United States. The United States has agreed to

make a limited amount of oil from Alaska's North Slope available to Canada, subject to the requirement that such oil be transported in U.S. tankers.

8. Agreement on Financial Services between Canada and the United States

Bilateral Benefits: With the growing interdependence of financial markets reflecting deregulation, liberalization, and technical innovation, the U.S.-Canadian Financial Services Agreement helps further integrate our two financial markets. U.S. and Canadian financial institutions will participate in all future liberalization of both our financial markets. The Agreement establishes a consultative mechanism to oversee liberalization and resolve any potential problems.

Overview: The Agreement on Financial Services is first bilateral agreement of the United States covering the entire financial sector. It removes essentially all existing discrimination faced by U.S. financial institutions operating in Canada, allows the flexibility to acquire Canadian financial services firms, improves access between our markets, and allows financial firms on both sides of the border to compete on a more equal basis. Canadian financial institutions will continue to enjoy the current treatment and open access they now receive in the U.S. financial market.

- U.S. commercial bank subsidiaries operating in Canada will be free from the current restrictions on market, share, asset growth, and capital expansion.
- U.S. insurance firms will now receive the same rights as Canadian insurance companies to diversify by establishing or acquiring federally regulated insurance and trust companies or closely held banks.
- Applications by U.S. commercial banks in Canada and U.S. securities firms to enter the Canadian securities market will be reviewed by federal authorities on the same basis (*i.e.*, prudential and regulatory) as those of Canadian firms.
- U.S. securities firms established in Canada will have the ability to diversify through a holding company structure into other financial activities such as banking and insurance.
- Canada commits (as does the U.S.) to liberalize its financial markets and to extend the benefits of its liberalization to U.S. financial institutions carrying on business in Canada.

- The Agreement establishes a consultative mechanism between the U.S. Department of the Treasury and the Canadian Finance Department to oversee liberalization.
- The U.S. agreed to guarantee the right of Canadian banks to retain their multi-state branches that were grandfathered under the International Banking Act of 1978.
- If the Glass-Steagall Act or related acts are amended, the U.S. also agreed that Canadian financial institutions in the United States would not be excluded from any of the benefits.
- The U.S. agreed to allow Canadian banks (as well as U.S. and other foreign banks) in the United States to underwrite and deal in debt obligations backed by the full faith and credit of Canada, its provinces, and political subdivisions:
 - responds to Canadian concerns regarding the treatment of their banks and securities firms which merge in Canada;
 - is a limited new power that is consistent with the existing ability of banks to deal in securities of the U.S. Government and its political subdivisions;
 - does not undermine the basic tenets of Glass-Steagall.

9. Government Procurement

Bilateral Benefits: The government procurement chapter of the FTA expands the size of the government procurement markets which will be open to free and fair competition between U.S. and Canadian suppliers. The chapter requires the implementation of bid challenge procedures available to individual suppliers, something the United States currently provides but Canada does not.

Overview: The U.S. and Canadian governments apply various "buy national" preferences in favor of suppliers of domestic goods. These preferences inhibit — and in some cases prevent — competition from foreign products. Under this chapter, suppliers of goods which are manufactured in the U.S. or Canada and which contain at least 50 percent U.S. or Canadian content will be treated on an equal basis to suppliers of domestic goods for covered procurements.

The value of procurement opportunities covered by this chapter is estimated at approximately \$3 billion of U.S. procurement and \$500 million of Canadian procurement. As a result of the new opportunities offered by Canadian entities under this chapter, procurement opportunities in Canada for U.S. exporters are increased by more than 100 percent. Viewed in conjunction with the Government Procurement Code, this chapter will now allow U.S. exporters to compete on a nondiscriminatory basis for all Code-covered procurements over \$25,000.

FTA Provisions

- "Buy American" and "Buy Canadian" restrictions are eliminated on the procurement of goods by U.S. and Canadian entities covered by the GATT Government Procurement Code between the Code threshold (for 1986, \$171,000) and an FTA threshold of \$25,000; and are subject to the same exclusions and exceptions as those covered by the Code.
- Principles are established to guide bid challenge procedures. These include a requirement that a reviewing authority with no substantial interest in the outcome of the procurement be responsible for deciding bid challenges.
- Each party must provide transparency in its procurement process. A party must provide public notice of all the criteria it intends to use in evaluating a bid (including offsets) and must award the bid based on those criteria.
- At the conclusion of current multilateral negotiations on the GATT Code, there will be an opportunity to expand coverage of this chapter by further negotiations with Canada.

10. Investment

Bilateral Benefits: The investment agreement in the FTA will help assure an open and secure environment for foreign investment in both countries that will maximize the economic gains from free trade. Investor rights will be protected through a long-term agreement that assures that new discriminatory barriers to investment will not be erected and the rules of the game will not be changed unfairly. A strong investment agreement is a vital element of the FTA; its reciprocal guarantees will protect investors in both countries. It will also provide the right environment to spur the private sector in both countries to maximize the economic gains available from free trade well into the next century.

Overview: The United States has about \$50 billion in direct investment in Canada. Canada has about \$18 billion invested in the United States. During the 1980s, U.S. direct investments in Canada and Canadian direct investments in the U.S. increased by roughly \$5-6 billion.

FTA Provisions

- Investments will be granted national treatment on and after entry so that future discrimination based on nationality will be ended. Existing restrictions are grandfathered.
- Prohibits new policies setting minimum national equity participation or forced divestiture; establishes internationally accepted standards for expropriation and compensation; and provides for the free transfer of profits, proceeds of sales and other business activities.
- Prohibits the future use of most performance requirements imposed on U.S. investors and on third country investors when there could be a significant impact on U.S.-Canadian trade.
- No screening of new (greenfield) business investments. The screening of direct acquisitions will be limited to acquisitions of Canadian assets of more than C\$150 million (constant dollar basis) after a phase-in period.
- Indirect acquisitions (involving subsidiaries in Canada of acquired foreign parents) will no longer be screened after a phase-in period. U.S. investors will have the right to sell, without screening, up to the new threshold of C\$150 million for direct acquisitions and without any limit for indirect acquisitions.
- Cultural industries are exempt from the FTA including the investment chapter. However, the agreement solves a key problem for investors. If Canada wishes to force divestiture of an indirect acquisition in a cultural industry, the Canadian Government will offer to purchase the cultural subsidiary at a fair, open market price independently determined.

11. Quantitative Restrictions and Other Import and Export Restrictions

Bilateral Benefits: Both countries will benefit from the general prohibition and elimination of current import and export restrictions like quotas, embargoes, and minimum price requirements.

Overview: Countries have often employed nontariff measures such as import quotas, minimum price requirements, and embargoes to limit trade. Obviously, these measures can destroy the benefits of free trade and their elimination is an essential element of a free trade area. Rules governing future measures are also a central element.

FTA Provisions

- The Canadian embargoes on used motor vehicles and used aircraft, and the U.S. embargo on lottery materials will be phased out.
- Import restrictions will not be permitted except in accordance with obligations under the GATT, which allows measures for health, safety, security, conservation and short supply.
- Export restrictions (including those for short supply and conservation reasons) may be taken but they must provide for the sharing of the resource with the other party, and they may not create price discrimination by other means.
- Existing restrictions will be eliminated, unless justifiable under the GATT, either by a timetable or immediately. Certain measures are being retained under the General Exceptions to the Agreement such as log export restrictions and U.S. Jones Act provisions relating to foreign-built ships.
- The parties have incorporated the GATT rule against internal measures that discriminate against products of the other party.

12. Safeguards

Bilateral Benefits: The FTA provides for a safeguard system (parallels Section 201 of the Trade Act of 1974 — also known as the "escape clause") to preserve the rights of workers and firms in both countries to gain relief from import-related injury while assuring U.S. and Canadian business that the trade expansion created by the FTA will not be suddenly and arbitrarily cut back.

Overview: While the United States and Canada have not used such actions against each other very often, the possibility of taking actions reduces certainty of market access. Rules on the use of safeguard actions are required in an FTA for corporate planning.

FTA Provisions

- The FTA establishes a two track safeguard system.

- The first track (bilateral relief) provides that if serious injury results from FTA duty reductions, the pre-agreement tariff rate(s) treatment may be restored. This provision can be used once per product during the transition period, for three years' duration, and the tariff must continue its staged reduction after the action expires. Actions shall not extend beyond the transition period except by mutual consent.
- The second track (global relief) provides that if serious injury arises from imports from several countries including the FTA partner, the partner taking the action has the right to include the other partner in the relief if the partner's imports are substantial and contribute importantly to the injury. This section is subject to binding arbitration following any retaliatory action. The FTA partner's imports cannot be cut back below the most recent representative base period with allowance for growth. If those imports are not substantial, they will be excluded from the initial action. If imports subsequently surge from the FTA partner, they can be included in the relief action.
- For any safeguard actions, compensation for the trade affected must be provided by the party taking the action, or the other party may retaliate.

13. Services

Bilateral Benefits: The FTA is the first international agreement governing trade and investment in services industries. It provides that future laws and regulations affecting trade and investment by the service providers (e.g., insurance, enhanced telecommunications and professions) of the other country will be nondiscriminatory.

Overview: Both the United States and Canada have relatively open markets for services. However, in the absence of international rules governing services trade, neither side has been constrained from imposing restrictions on services.

A wide range of industry sectors are covered by the agreement including: construction, enhanced telecommunications, insurance, professional services, services relating to mining and agriculture, wholesale and retail trade, tourism, management services, and other business services.

FTA Provisions

- Future U.S. and Canadian government measures such as laws, regulations or licensing requirements affecting services trade and investment will be required to provide national treatment, that is, not to discriminate between the services providers of either country.
- The right of establishment, the right to sell across the border, and greater transparency in regulations are also provided.
- The opportunity for future negotiations to increase liberalization, sectoral coverage, and other obligations.
- Future licensing and certification requirements for individual's providing services (such as accountants and engineers) will be based on competence and ability.
- Both sides will work toward mutual recognition of licensing and certification requirements.
- In architecture, both sides will review the work of professional organizations to develop mutually acceptable standards and will encourage adoption of necessary legal changes to effect mutual recognition by the states and provinces.
- In enhanced telecommunications and computer services, the agreement ensures the further development of an open and competitive market including access to and use of the basic network.
- There are annexes which clarify the application of the services agreement to architects, telecommunications, and tourism.

Note: See separate paper on "Financial Services."

14. Standards

Bilateral Benefits: Both countries will benefit from increased discipline over the use of standards-related measures so that they do not hinder trade unnecessarily. Certification and testing facilities will receive nondiscriminatory treatment in both countries.

Overview: There are legitimate public policy objectives for which technical regulations and standards-related are maintained (e.g., to protect human, animal or plant life or health; to preserve the environment; and to protect essential security interests). However, standards measures may work to inhibit trade. The FTA standards agreement builds on our mutual obligations under the GATT Standards Code.

FTA Provisions

- At the federal level, neither party will use standards to create unnecessary obstacles to trade.
- Obstacles to trade are not created where the *demonstrable* purpose of standards-related measures is to protect health and safety, environmental, national security and consumer interests. However, such measures must not operate to exclude goods of the other country if they meet these objectives.
- Both countries will assure that testing facilities and certification bodies are treated in a nondiscriminatory manner. This paves the way for the recognition by Canadian authorities of U.S. facilities and bodies.
- Canada and the United States agree to harmonize (make compatible) federal standards-related measures to the greatest extent possible, and to promote harmonization of private standards.
- We have agreed that processes and production methods are included as standards related measures subject to the provisions of the agreement.
- Both countries will recognize each other's systems for accrediting testing labs.
- Both countries will provide for enhanced transparency in the regulatory process with additional information exchange and a guaranteed 60-day comment period on proposed regulations at all levels. Similar provisions will apply for state, provincial, and private standards activities at a "best efforts" level.

15. Binational Panel Dispute Settlement in Antidumping and Countervailing Duty Cases

Bilateral Benefits: Each country will continue unilaterally to administer and enforce its countervailing duty and antidumping laws. However, special binational dispute settlement panels will review whether final administrative decisions are appropriate under national laws.

Overview: National antidumping and countervailing duty laws are designed to address the unfair trade practices of injurious dumping and government subsidies to industries. This section of the FTA provides for a binational mechanism to replace review by national courts of certain final antidumping and countervailing duty decisions. Canada believed that binational review of unfair trade cases affecting bilateral trade was an essential element of the FTA.

FTA Provisions

- Upon request of a government or a private party to the case, the panel will review, based on the administrative record, final determinations in antidumping and countervailing duty investigations and administrative reviews. The panel will apply both the law and the standard of judicial review applicable under the domestic law of the importing country. Under the FTA, panel decisions will be binding. Private parties will participate before the panel, just as they would now participate in court review.
- The panels will be set up case-by-case, with two persons appointed by each side, usually from a roster of experts. The fifth person will be mutually selected. At least three of the five members of each panel, including the Chairman, will be lawyers.
- The binational review arrangement will be in place for five years, during which time the parties will work on improving the mechanisms to deal with subsidies and dumping in the FTA. There is an automatic two-year extension if no new system has been developed at the end of five years. Failure to agree to a new regime at the end of seven years would allow either party to terminate the Agreement.
- The binational panel process would apply to final determinations made after January 1, 1989 in investigations or administrative reviews.

16. Tariffs

Bilateral Benefits: All bilateral tariffs will be eliminated in stages by January 1, 1998. The removal of tariffs will increase two-way trade and lower costs to consumers in both countries, thereby creating a single continental market of 265 million people.

Overview: Approximately 75 percent of bilateral trade, currently in excess of U.S. \$120 billion, moves free of duty. The remaining 25 percent, however, is subject to tariffs. Canadian tariffs average about 9-10 percent or about twice the U.S. average of 4-5 percent.

FTA Provisions

- The results of the tariff negotiation are expressed in terms of the new Harmonized System of Tariff Nomenclature.
- All dutiable products were assigned by mutual agreement to one of the following staging categories:

immediate, five equal annual cuts (20 percent per year), and ten equal annual cuts (10 percent per year). In most instances, staging on a particular product is the same in both countries. The stages for various commodities were selected in recognition of the fact that industries in both countries will require varying periods of adjustment to changing competitive conditions.

- Import sensitive industries on both sides of the border were generally accorded 10-year staging. These include plastics, rubber, most wood products, lead, zinc, base metal articles, footwear, textiles and apparel, steel, alcoholic beverages, consumer appliances, precision instruments, watches, and most agricultural and fish products.
- Immediate duty elimination is scheduled for such products as automatic data processing and related equipment, modems, motorcycles, whiskey and rum, some processed fish, rawhides, skins and leather, furs, and telephones and telephone handsets.
- All other duties will be eliminated within five years. Included within this category are paper, furniture, printed matter, chemicals, after-market automotive parts, precious jewelry, most machines, some musical instruments, and petroleum.
- Products presently enjoying free treatment or temporary tariff-rate reductions will continue to receive such treatment.
- The agreement also provides for an acceleration clause whereby tariffs can be staged faster after the implementation of the FTA, when there is bilateral agreement.

17. Temporary Entry for Business Purposes

Bilateral Benefits: Under the FTA, qualified business persons will be able to enter either country temporarily through means of a simple and fast process at the border. Both countries will benefit from simpler procedures for the temporary entry of traders and investors, while maintaining necessary protections for indigenous workers.

Overview: Currently, professional service providers, such as architects, management consultants and engineers, have difficulties entering either country to do business. In some cases, immigration procedures are a significant barrier to trade in both goods and services. In addition, exporters

have encountered problems in entering their personnel to perform after-sales and warranty service on commercial or industrial equipment. This chapter addresses these problems.

FTA Provisions

- A list of business persons was established, including after-sales service providers, who are eligible to enter each country temporarily under simpler border crossing procedures.
- Facilitated entry for professional business persons to cross the border in order to provide their expertise or services.
- Special visa or entry procedures for certain traders and investors (those who come to sell or buy, or manage investments) to give added certainty of market access. In the United States, this is the treaty trader/treaty investor visa.
- No labor certification tests or similar procedures for temporary entry of certain intra-company transferees.

18. Wine and Distilled Spirits

Bilateral Benefits: Significant reduction of barriers to trade in wine and distilled spirits.

Overview: Retail sales of alcoholic beverages in Canada are conducted almost exclusively through provincial liquor boards or marketing agencies. U.S. suppliers of wines and distilled spirits are experiencing great difficulty marketing their products in Canada because of discriminatory provincial liquor boards, practices regarding product availability, wholesale and retail distribution, and pricing. Under the FTA, many of these barriers will be removed for U.S.-produced wine and distilled spirits.

FTA Provisions

- Tariffs on all alcoholic beverages will be eliminated over 10 years.
- Canada's discriminatory pricing system will be eliminated immediately for distilled spirits, and it will be phased out for wine. The phase out will be 25 percent of the discriminatory differential in the first year, 25 percent in the second year, and 10 percent in each of the five following years.
- Public entities selling these products will be able to charge a differential markup on wine and distilled spirits which reflects the audited difference in actual

costs of service between imported and domestic products.

- U.S. producers also will gain increased access to the distribution and marketing networks in Canada, although certain current discriminatory practices relating to distribution outlets in Canada will be "grandfathered" (allowed to continue).
- Canada will eliminate its requirement that imported bulk distilled spirits must be blended with Canadian product in order to be bottled in Canada.
- Canada will recognize bourbon whiskey as a distinctive product of the United States, and the United States will continue to recognize Canadian whiskey as a distinctive product of Canada.
- Current Canadian regulations concerning beer and malt-containing beverages were grandfathered in the FTA, but the U.S. reserved its GATT rights regarding these regulations. ■

2025865395